

PLANNING BOARD MEETING

TIPP CITY, MIAMI COUNTY, OHIO

April 10, 2007

Meeting

Chairman Michael McFarland called this meeting of the Tipp City Planning Board to order at 7:30 p.m.

Roll Call

Roll call showed the following Board members present: Mike McFarland, Bryan Blake, John Berbach, Robert Horrocks, and Mark Springer.

Others in attendance: Assistant City Manager Brad Vath, City Planner/Zoning Administrator Matt Spring, Fire Chief Steve Kessler, and Board Secretary Marilyn Fennell. Those signing the guest register included: John Canzonere, Ted Kelley, Jon T. Kelley, Joe Bagi, Carl Owens, David Burig, Robb Beckstedt, Gearied F. Hitchcock Jr., Thomas Sylvester, Eric Eidemiller, Kristie Furst, Melanie Vagedes, Michelle Miller, Karen Faler, Martina Minor, Stefanie Derringer, Roy & Marilyn Roller, Elden Eidemiller, Colleen Eidemiller, Lauren Michaels, Molly French, Linda Eidemiller, Joe Eidemiller, and Larry & Carol Brewer.

Approval of Minutes

March 13, 2007

Meeting

Items not on the

Agenda

NEW BUSINESS

Deadline Dates

Mr. Berbach **moved to approve the minutes of the March 13, 2007 meeting.** Mr. Blake seconded the motion. Motion carried 5-0.

There were no comments on items not on the agenda.

Chairman McFarland announced that the next regularly scheduled Planning Board meeting would be held Tuesday, May 8, 2007. Preliminary Plans, Final Plats and Site Plans must be submitted by 5:00 p.m. on April 16, 2007 and temporary sign requests for display over 30 days must be submitted by 5:00 p.m. on May 2, 2007.

David & Carolyn
Glaser, 1330 E.
Evanston Rd., IL 4043
& 4044- Set Public
Hearing Date for
Zoning Map
Amendment

Mr. Spring explained that on October 2, 2006, City Council accepted the annexation for this property. It is located at the southwest corner of E. Evanston Rd. and S. Tipp-Cowlesville Rd. On November 14, 2006 Planning Board recommended permanent zoning of R-1 Open Space Residential and on December 18, 2006 City Council adopted that zoning for the property. Staff notes that this zoning does not allow the creation of a third lot on the property, thus the applicant is seeking a rezoning from the current R-1 zoning to R-1A (Suburban Residential District). The applicant desires to create 3 lots within this 4.25 acre parcel. Mr. Spring said Staff recommends a public hearing date of May 8, 2007 to consider this rezoning.

Mr. McFarland **moved to set a public hearing for May 8, 2007 for the rezoning of 1330 E. Evanston Road, Inlots 4043 and 4044.** Mr. Springer seconded the motion. Mr. Springer asked if this creation of 3 lots is a major subdivision. Mr. Vath said that was correct and it was a similar situation as that on Kerr Road which was discussed recently. Mr. Vath said this has been explained to the applicant and the applicant has the ability to apply for a waiver. Mr. Vath said there were only 3 Board members present at the meeting with a similar request and the vote might be different with a full Board present.

City of Tipp City,
Zoning Map
Amendment- Legacy
Overlay District- Set
Public Hearing

Myron Kelley, architect
for Pam Orem, 4960
S. County Rd 25A, IL
3414 - Site Plan
Review and Special
Use Permit

Mr. McFarland called for the vote. The motion passed 5-0.

Mr. Spring said the City was requesting per Code §154.151 (A) that the Planning Board set a public hearing to add the "Legacy District Overlay" to the existing underlying zoning districts in the area delineated on the zoning map included in the Board packets. The public hearing date requested is May 8, 2007 to consider the rezoning request.

Mr. McFarland **moved that a public hearing be set for May 8, 2007 for this rezoning request.** Mr. Blake seconded the motion. Motion carried 5-0.

Mr. Vath explained to those present that the City as part of their goals and objectives, had hired consultants to look at the use and reuse in the area that was noted in dark red on the Powerpoint presentation. This area is in the Legacy Overlay District. Council adopted code based on those studies and on recommendations from the Planning Board. It provides for additional uses and relaxes some requirements for parking and other aspects for properties in that overlay district. Property owners in that area and others will be able to give testimony at the hearing about adding this overlay district.

Mr. Spring said the Board needs to consider two actions. The first is a site plan review for the satellite office of the Fairington Cardiovascular and Wellness Center. This is the former location of the Tipp City Veterinary Hospital. The structure is \pm 2,366 square feet with a proposed 110 sq. ft. addition. The addition will be on the northeast corner of the structure. Staff did note that the CR25A right of way is incorrectly depicted on the site plan as 60' wide. With the completion of the 2006 expansion of County Road 25A, the right-of-way is currently 100'.

Mr. Spring continued that a 6'x8' uncovered concrete porch is to be installed directly east of the proposed addition. A 5' wide, 24' long concrete walkway will be added from the porch to the parking area. There is to be a modification of the existing roof system from the existing hip roof to a gable roof. There will also be a reconfiguration of some interior walls and the installation of new windows.

Mr. Spring said that City Engineer Vagedes has indicated that storm water detention is not needed due to the insignificant increase of impermeable area for the 1.252 acre parcel.

Mr. Spring noted that the second request is for a Special Use permit due to the property being zoned I-1 (Light Industrial). He had noted the permitted uses in such a zoning district and under Special uses the Board has the ability to determine that such a use is of the same general character as the permitted uses listed and is not found to be obnoxious, unhealthful, or offensive. Staff recommended that the Board determine if the requested use is of the same general character of the permitted uses.

He then gave the general requirements for special uses. The specific requirements give consideration to the traffic issues and that the use would be harmonious to the business or industrial district in which it is situated. Mr. Spring said the off-street parking requirements are

covered under Code §154.071(C). When the use changes, the parking should be approved as required for the new use. The building was constructed before the effective date of this chapter of code, and is mandatory only in the amount which exceeds the old use. The structure was built in 1972 and the parking code was effective in 1994. The previous use as a veterinary hospital required 16 spaces. The new use would be 12, therefore additional off-street parking is not required.

Mr. Spring said that staff recommended approval of the site plan and the special use request with the following conditions:

- 1) The Planning Board finds the medical office specializing in cardiovascular and vein treatment acceptable and of the same general character as the other uses within the I-1D Light Industrial Zoning District including lesser commercial uses not detrimental to the district, and found it not to be obnoxious, unhealthful, or offensive by reason of the potential emission or transmission of noise, vibration, smoke, dust, glare or heat, and grants a Special Use for the same.
- 2) That the applicant receives an approved Zoning Occupancy/Change of Use Permit prior to occupancy (already applied for by applicant).
- 3) Any signage for this usage shall require a separate Sign Permit, subject to review and approval.
- 4) The applicant must obtain authorization/approval from the Planning Board for any proposed exterior modifications to the site plan **prior** to the construction/undertaking of any such proposed modifications.

Mr. Springer said he thought the use was lesser and not harmful and fit well in the district. He then **moved to approve the Special Use permit for 4960 S. County Road 25A**. Mr. Blake seconded the motion. Motion passed 5-0.

Mr. McFarland asked for any concerns or questions regarding the site plan. He verified that due to the site having less than 25 parking spaces, it does not require a handicapped space. Mr. Vath said that was correct. Mr. Blake asked if the property abutted any residential property. Mr. Spring said it did not. Mr. McFarland **moved to approve the site plan as presented for 4960 S. County Rd. 25A with the 4 conditions listed in the staff report with a correction of the right-of-way to 100'**. Mr. Springer seconded the motion. Motion passed 5-0.

Tipp City Dairy Queen,
573 W. Main St., Pt IL
428- Site Plan Review

Mr. Spring said the applicant is seeking site plan approval to place a 6'x8' shed at the northwest corner of the property. The shed is to be placed 6' from the western property line, 10' from the northern property line and 38' from the eastern property line and 115' from the southern property line. It will be located on an existing concrete slab at the northwest corner of the off-street parking area. There is also an existing dumpster enclosure facility in this vicinity. It contains 2 roll-out dumpsters and they are manually removed prior to emptying. There are also 3 existing bollards abutting the enclosure. Staff noted that the shed will not impact the capacity of the existing nonconforming parking area. Storm water detention is not required as it will set on existing concrete. Mr. Spring said staff recommended approval with the following conditions: 1) the applicant must obtain an approved Zoning Compliance

Permit prior to the placement or construction of the shed and 2) the applicant must obtain authorization/approval from the Planning Board for any proposed modifications to the approved site plan **prior** to the construction/undertaking of any such modifications.

Mr. Spring said the applicant was present and had a possible change in the location of the shed placement.

Mrs. Carol Brewer, owner of the Dairy Queen, said they wish to place the shed against the fence. Mr. Springer asked if that would be a 0' setback from the western property line. She said it would actually be 3'; all on the pad. Mr. Vath asked if they would be placing it in the planted area. Mrs. Brewer said it would be kept on the concrete pad. Mr. Springer asked what would be stored in the shed. Mrs. Brewer said paper products only. Mr. Blake asked if the City had any objections to the proposed changes. Mr. Spring said he did not.

Mr. Blake **moved to approve the amended site plan for the Dairy Queen store for a shed with two conditions, 1) that the applicant receive an approved Zoning Compliance Permit prior to the placement of the shed and 2) the applicant must obtain authorization/approval from the Planning Board for any proposed modifications to the approved site plan prior to the construction/undertaking of any such modifications.** Mr. Berbach seconded the motion. Motion passed 5-0.

OLD BUSINESS

Mr. McFarland asked Mr. Vath to explain why the previously scheduled workshop was not held this evening on the next item of business and then asked Mr. Vath to swear in those wishing to give testimony during the next case.

Mr. Vath said at the last Planning Board meeting, Planning Board did set a workshop session to be held this evening at 6:45pm. After consulting the City's Law Director Joe Moore, he indicated that it would not be advisable to hold a study session after the closed public hearing. The applicant is bringing forth a revision tonight and the public hearing will be reopened. The study session was cancelled on Mr. Moore's advice.

Swearing in

At this time, Mr. Vath swore in those wishing to speak during the reopened public hearing.

Mr. McFarland **moved to reopen the public hearing for US Bank Trustee for S. Joe Eidemiller, 610 W. Kessler-Cowlesville Road, Pt Inlot 2392- Zoning Map Amendment from I-1/POI to PC and PR.** Mr. Horrocks seconded the motion. Motion carried unanimously.

US Bank NA, Trustee
for S. Joe Eidemiller,
610 W. Kessler-
Cowlesville Rd, Pt IL
2392- Zoning Map
Amendment I-1/POI to
PC & PR, ±75.565
acres

Mr. Vath said the applicant is seeking a rezoning on 75.565 acres. He stated the public hearing was closed last month and a workshop was set to discuss the questions raised regarding safety hazard from anhydrous ammonia stored at the Meijer Distribution facility. Tipp City Fire Chief Steve Kessler is present this evening to answer some of those concerns. During the last month the applicant has submitted a revised rezoning request. They are requesting 22.906 acres to be zoned PC (Planned Commercial) and 52.659 acres as PR (Planned Residential). The previous drawing/request showed 33.532

acres as PC and 42.033 acres as PR. The surrounding property owners were notified of this change with two maps and the reopening of the public hearing. Mr. Vath said he would not repeat all of the information presented at the last meeting in the staff report. He said staff's recommendation was that Planning Board's motion should clearly indicate the rezoning from I-1/POI to PR and PC, with both properties being developed as one development, either positively or negatively to City Council.

Mr. McFarland asked Chief Kessler to come forward for his report. Mr. Kessler said in addition to being Fire Chief, he was also a Hazardous Material technician, for at least 20 years. He was asked to explain the anhydrous ammonia stored at the Meijer facility. There is about 55,000 lbs at Meijer, used in their refrigeration area. He stated anhydrous ammonia is a dangerous product, it can cause death. He said there has been training for Miami County and for Tipp City. Meijer also has trained personnel to work with the ammonia. Meijer has Level "A" suits with their own air respirators. Tipp City Fire does not have their own as they cost about \$800-\$900 a suit. The Miami County Haz-Mat team does have Level "A" suits. Mr. Kessler said someone raised the point of evacuating homes within 2 ½ miles of such a spill site. He said his First Responder's book recommends 300' for an initial release.

Mr. Kessler said Meijer has 55,000 lbs, 5 lbs./gallon or 11,000 gallons. In comparison, tank cars traveling thru town on the rails carries 30,000 gallons. It is still a dangerous product and must be handled correctly. Meijers have maintained it well and Tipp City has never had a problem. He said Meijers has many computerized controls. The big white tank in the back is for water for their fire suppression system. There are no outside storage tanks at Meijer for anhydrous ammonia. It is all contained within the buildings.

Mr. Berbach asked about the amount of ammonia traveling on the railroad thru town. Chief Kessler said each train car carries 3 times the amount that is found at Meijer. One of the pressurized cars with the diamond placard on it with the number 1005, that is anhydrous ammonia with 30,000 gallons of anhydrous ammonia. He also added that the semi tankers going up and down the highway are more susceptible to spillage and damage than Meijer's. Mr. Blake asked if it spread more quickly if it became airborne. Chief Kessler said anhydrous ammonia is ammonia without moisture. It is compressed. It is transported at -28°. When it is released, it expands and becomes a gas. It is also lighter than air so it will diffuse into the air and be blown away. When it is cold, it will settle on the ground and settle in low spots. As it warms up it will diffuse and be blown away. Mr. Vath asked about the mention of computerized programs for the monitoring of the system. Chief Kessler said there are computer systems to monitor it, monitors on the roof, and a technician also has a monitor at his home and is able to monitor the valves from his house. Mr. Vath said the 11,000 gallons are within the refrigeration system and not stored in a tank; it is self-contained in the refrigerated system. Chief Kessler said there is one small tank to keep their system full. There is a dump tank outside the building if there were ever any leak within the interior system so as not to release any of the ammonia.

Mr. McFarland said it sounds as though Meijer has done all that

they can to control this chemical. Chief Kessler said when the facility was built it was state-of-the-art. Meijers has continued to improve their system. Some pipe was replaced on the roof and he had been notified.

Mr. McFarland asked for questions from those in attendance. Mr. David Burig, HD Living, came to the podium. He stated that the change in the amount of commercial was in response to some suggestions raised at the last public hearing, to make it less intensive. The Kessler-Cowlesville Road residential frontage was 732', the proposed change increases that to 800', a 31% reduction in the commercial property.

Mr. John Canzonere came to the podium. He said Mr. Burig was questioned as to how many of these communities HD Living Enterprises has developed and where were they located. Mr. Canzonere said he replied he had developed over 200 of these communities all over the United States. Mr. Canzonere said he had no way of checking that statement. He found the statement misleading. In conversations with some of the neighbors, Mr. Burig said it would be HD Living's first project. Mr. Canzonere said it would have been better to be more truthful with this Board. Mr. Canzonere was concerned as to the type of homes and businesses that Mr. Burig has planned for this area. He also believed that the commercial development would adversely affect his property value in Windmere. He also asked if a study had been done to see if Kessler-Cowlesville Road can handle the additional traffic, both cars and semi-trucks that this development might bring. At the last meeting, he was the one that brought up the risk at Meijer with the ammonia. He believes that Meijer has been a good corporate citizen and that they maintain their monitoring system correctly but a risk is still a risk. Since Meijer has been built, Windmere, Oakwinds, Rosewood Creek and Springmeade have been built. There have been failures in chemical plants in Troy and Dayton in the last few years at Deltech Polymers and Isotec. Mr. Canzonere said despite all maintenance practices, accidents can still happen. Isotec warned against placing additional residential near their factory. It was stated that residents near Isotec did not realize that the chemicals were there. He asked if HD Living Enterprises plans to disclose this to new residents or will they find out when they do a search of public right-to-know?

Mr. Canzonere continued that such accidents stretch the emergency services, displace hundreds of residents and have resulted in numerous lawsuits against the affected companies. Isotec has been sued for \$80 Million. He said he assumes that Tipp City emergency services can handle safe evacuation of the 2.5 mile radius around the Meijer facility but has HD Living Enterprises offered to provide additional emergency response equipment to the fire and police department.

Mr. Burig said he never said he had developed 200 of these communities. For the record, upon the development of his 50th one, he will hang up his work boots. He said he had worked for a company that had developed 200 of these communities and when he spoke to Mr. Ernst (another neighbor) on the phone, he did say it was his first development project.

Mr. Elden Eidemiller, one of the property owners, said that one of the questions is the impact upon the surrounding homes. The current

zoning of Industrial might have more of a drastic impact than what they are trying to do with this rezoning.

Mr. Vath said that the Planning Board did receive a copy of the e-mail from John Canzonere (4-6-07) and Paul Ernst (4-5-07) and had been reviewed and entered into the record of this public hearing.

Mr. McFarland asked Mr. Vath what type of businesses would be permitted under the Planned Commercial zoning designation. Mr. Spring said Planned Commercial would allow anything under Office/Service, Convenience Business, Highway Service, and General Business Districts. He and Mr. Vath read thru those lists from the Code Book. Mr. Spring said it was a wide range of businesses. Mr. McFarland said it did not include any industrial manufacturing, trucking firms, etc. None of the other uses would greatly increase truck traffic on Kessler-Cowlesville. He asked about the agreement for no-truck traffic on that road. Mr. Vath explained that Kessler-Cowlesville Road for the Meijer development only, had stated in the approval legislation by Council, that truck traffic could not go on Kessler-Cowlesville Road from the Meijer facility. That provision did not specifically apply to this parcel but a precedent has been set with the Meijer development. Commercial ventures and persons moving in and out and delivery trucks would create some truck traffic. Planning Board would need to determine if a traffic study would need to be done to determine if the roadway would or would not need improvements. The Thoroughfare Plan would require the road to be widened from the eastern to the western property line to a minimum of a 3-lane configuration.

Mr. McFarland said if no rezoning takes place then the I-1/POI zoning could bring in a large industrial facility which could be more detrimental. Mr. Vath said the Light Industrial district would permit something like Transfreight. Mr. Bake asked about the road through the development separating the residential and the commercial. Mr. Vath said that is not specifically included in the rezoning. It was shown as a reference to give some idea where the road would go thru. It would be required to be installed as part of this development. That roadway is shown on the revised Thoroughfare Plan.

Mr. Springer asked about the amount of commercial permitted within a Planned Residential Development. Mr. Vath referred to the code book and found that 5% of the area can be used for commercial. That would allow for 5% of the 52.659 acres (PR) could be used for commercial.

Mr. McFarland asked for further comments from those in attendance. There were none. Mr. McFarland **moved to close the public hearing**. Mr. Blake seconded the motion. Motion passed 5-0.

Mr. McFarland asked for Board members comments or questions. Mr. Springer asked if the Planning Board had any ability to place moratoriums on a development. Mr. Vath said it had been done most recently at the City Council level. He said that the Board can express concerns or issues with the sequencing or timing of the development to Council. Mr. Horrocks asked if Kessler-Cowlesville Road could accommodate truck traffic back to the current property line. Mr. Vath said it is a 39' back of curb to back of curb design which is a 3-lane

configuration as the new N. Hyatt St. reconstruction. He said he did not know what the cross-section of that portion of the road was. The width is identical to roadways that accommodate trucks presently in Tipp City. Mr. Horrocks asked why the truck traffic was directed to County Road 25A. Mr. Vath said the City worked with Ohio Dept. of Transportation grants awarded to Tipp City to upgrade Exit 69 and the truck traffic was directed to CR 25A rather than impact the residential properties along Kessler-Cowlesville Road. Mr. Horrocks asked if the property maintained its current zoning and was industrially developed, the road upgraded, it would be reasonable development for that. He said he had concerns that the Planned Commercial District will not be a suitable buffer from the Meijer Distribution Center back to a Planned Residential district.

Mr. McFarland asked if there was a big mound on the western property line. Mr. Vath said there is a large earthen mound that has pine trees planted on it. During the last Planning Board meeting it was mentioned that for good planning practices you try to "step down" the zoning from an industrial to some type of a commercial to a residential district. The Commercial acts as a buffer and seems to be an appropriate "step-down". Mr. Vath also told Mr. Horrocks that he was not sure that Kessler-Cowlesville Road would need to be upgraded or not. He thought it might need repaved but that is normal upkeep. Those issues would come up as development occurs.

Mr. McFarland asked if the rezoning was recommended, how would that impact the Comprehensive Master Development Plan. Mr. Springer said he has looked at Planning Area 15 and it does not have a clean break for industrial growth. Mr. McFarland commented that there is a lot of property approved and designated for residential housing. There has also been a slow-down in housing sales. He was not sure he was comfortable in recommending more housing zoning. Mr. Berbach added that the Board has felt uncomfortable before and that was the reason for moratorium on building. He said he felt Meijer has addressed the safety issues satisfactorily. Mr. Berbach said there is a 3-year supply of residential lots and this rezoning would add more. Mr. McFarland said there is also the Loring property. Mr. Berbach said he thought the nearby residents would rather see residential than commercial. He thought it was contrary to the CMDP. Mr. McFarland said if the Board passed on a negative recommendation, Council could override that.

Mr. Vath thought it took a super-majority vote by Council to override a negative recommendation by Planning Board. The moratoriums were placed at a time when the state annexation law was changing and the City had literally 5 or 6 annexations at one time. The moratoriums were placed at the Council level.

Mr. Springer said the majority of permitted uses as it is zoned today is more detrimental than what is being proposed. On one hand, he felt the land was better served with the proposed change, even though it goes against the Comprehensive Plan a little, but not drastically. On the flip side, once the zoning is changed it could be a 200+ number of homes. There is not a guarantee that the Eidemiller property would be for a empty-nesters' community.

Mr. Horrocks said they have come to the Board twice and from the industrial standpoint they have tried to market the land and have not had any luck. A Planned Commercial use would have a prospect of creating some jobs.

Mr. Blake said he kind of agreed with Mr. Springer and Mr. Horrocks. There are a lot of residential lots available and there is no control once you change the zoning, there is no in-depth plan being presented. He thought the Planned Commercial would be more appropriate than Industrial. He thought the surrounding neighbors would see it that way rather than having some industrial facility built there. We have a property owner trying to do something with their land and have not been successful and the City does not wish truck traffic on Kessler-Cowlesville Road. He also sees a lot of residential land available already.

Mr. Springer asked if there is any way thru a deed restriction that the PRD could be designated as an empty-nester community. He thought the Planned Residential with the Planned Commercial it is a nice step-down from Meijer. Mr. Vath said the property owners have the ability to do that themselves. They can put an encumbrance on the deed. He would have to defer to the Law Director as to whether it could be tied to the rezoning. To Mr. Vath's knowledge that has never been done in Tipp City. He said Planning Board's concern will be reflected in the records from tonight's meeting and about having the residential portion being developed as empty-nester residential.

Mr. Vath also wanted to go back to a statement by Mr. Blake. The City has not prohibited trucks on Kessler-Cowlesville Road. It was an agreement with Meijer specifically for the Meijer project.

Mr. Blake said he wished to add that he would be more comfortable with a moratorium on the residential property because of the amount of property available. Mr. McFarland asked if Planning Board had the authority to set moratoriums. Mr. Vath said it has been done at the Council level by the elected officials. Planning Board's concerns will be reflected in the minutes and can also be included the staff report to City Council.

Mr. McFarland asked for further comments or questions. Mr. Springer asked if a negative recommendation is passed onto Council what would it take to overturn that. Mr. McFarland said Council could pass or fail a positive recommendation. Mr. Vath said that was correct, Council could affirm it, deny it, or modify the request. A positive recommendation takes 4 Council votes to pass, a negative recommendation requires a 2/3 vote of members present with a minimum of 4 votes to be overturned (Code §154.161).

Mr. Berbach said either way, he is looking for guidance from Council on how they wish to handle residential housing. Mr. Vath said if the land is rezoned the Planning Board would be looking at the development plan for the entire parcel and it may be a phased development or it may be all at one time. There is a subdivision process, the planned development process.

Mr. Horrocks **moved to recommend to City Council the**

rezoning for 610 W. Kessler-Cowlesville, Pt IL 2392 from I-1/POI to PR (52.659 acres) and PC (22.906 acres) to be developed as one development. Mr. McFarland seconded the motion. Motion carried 3-2. Ayes: Horrocks, McFarland, and Blake. Nays: Berbach and Springer.

THS Students

There were a number of high school students present and Mr. McFarland asked them to come forward for their required signatures so that they could get home.

Miscellaneous

Tom Sylvester, 425 E. Evanston Road

Mr. Sylvester was present to discuss a subdivision matter regarding his property. Mr. Vath said it was a similar situation to the Thompson property on Kerr Road and the Glaser property on Evanston Road, mentioned this evening.

Mr. Sylvester thanked the Board for their time. He had a PowerPoint program to show his situation to the Board. His lot is about ½ acre and 200' deep. He wishes to purchase an additional 235'-245' in depth to the north and then possibly another 10' to the west. The back boundary would be before the creek that runs thru the area.

Mr. Vath asked if the one line was right-of-way because if it was right-of-way it would be over the required minimum right-of-way width. If it is right-of-way it might just be a minor subdivision. Mr. Vath suggested we check with ODOT. Mr. Sylvester said that was before his ownership. Mr. Vath said staff could contact ODOT and get a copy of the right-of-way drawings for the construction of the bridge. The tax map doesn't delineate what the line is. If it is not a highway easement, then dedication of right-of-way would need to take place and the improvements.

Mr. Vath said by definition even though he is not affecting the front portion, the property sets on a roadway that is 60' right-of-way and according to the Thoroughfare Plan, it needs to be 70'. So he would need to donate the additional 5' on his side of the right-of-way.

Mr. Horrocks asked if the improvements were required or just donation of right-of-way. Mr. Vath said according to our code, he would need to do the improvements unless the Board waives that requirement. He cannot purchase the property unless he does a minor subdivision as he is taking a piece of another lot. A transfer of adjacent landowner could be done, but our code requires that portion that is sold be combined with the existing portion into one new inlot of record so we don't have a whole lot of lots that are 4-5 pieces as part of our subdivision process.

Mr. Springer said there have a number of these issues recently. He asked if there needed to be a change in the code or what. Mr. Vath said staff has looked at the situation and there is the opportunity for the Planning Board to grant a waiver. On the Kerr Road vote, there was not a full Board present and the vote may have been different if all members had been there. If Mr. Sylvester brings his matter forward, there might be a different outcome after looking at the specifics of this request.

Mr. McFarland asked if Spring Hill's 22 acres is one lot. Mr. Vath thought it was all one lot. Mr. Blake asked if he takes the 10' on the front it doesn't matter if there is not right-of-way already dedicated. It would

still have to be considered as a minor subdivision if it is easement.

Mr. Spring said there might have to be a variance by Planning Board for the 1:3 ratio (width vs depth) of the lot. Mr. Vath said the entire portion of Mr. Blair's property would have to be shown plus the revised lot, there would be two lots modified. Mr. Vath said he would have Mr. Spring check with ODOT.

Mr. Sylvester asked if the Board was receptive to the replat and would they waive the road improvements. Mr. McFarland said that would be answered once the question of the right-of-way is received. Mr. Blake thought the replat made sense. Mr. Spring thought Mr. Sylvester was asking the Board if they were willing to waive the public improvements.

Mr. Springer asked Mr. Sylvester if he had a timeline. Mr. Sylvester said Mrs. Peiser first asked him and then the property has been sold to the Blair Land Group and Nelson and Betty Borchers. Mr. Vath said there is still an issue between the parties.

The Planning Board will be informed of the findings from ODOT.

City Council Reports:
March 19, 2007

Mr. McFarland attended the March 19, 2007 meeting and reported that there was a resolution of necessity for the W. Main St. Street Scape project and for the material testing needed for that project. Public hearings were set for the rezoning requests for the Nazarene Church and Berry Logan properties.

April 2, 2007

Mr. Horrocks said there was a first reading for the Nazarene Church rezoning and a public hearing was set for an appeal of a decision by the Board of Zoning Appeals regarding a sign.

Board member
comments

Mr. Berbach thanked Chief Kessler for his information provided this evening. He thought the vote of 3-2 on the Eidemiller rezoning request shows Council that there needs to be some direction from Council for future matters.

Mr. Blake said he would not be available to attend City Council on May 7th and will not be at the next Planning Board meeting. Mr. Springer said he would cover the Council meeting on May 7. He said the rezoning was a better use than the Industrial zoning. He said we will see how Council handles the situation.

Mr. Horrocks asked if Planning Board had in its procedures the capability for going into executive session. Mr. Vath said he would need to look at the rules; usually it is for pending litigation. He said he would need to do some investigation. Mr. Horrocks said he agreed that Council will be giving the Board some reasonable direction in future matters. As far as the development being an empty-nester community, if it were a street-residential community perhaps the result would have been different. That was his only further comment on that matter.

Mr. Springer asked about the legal proceeding included in the packet (Gerald & Goldie Thompson case). He asked what was the Planning Board members' exposure in such cases. Mr. Vath said he could not give a legal opinion but the different Boards and Commissions

are covered under Tipp City's liability insurance policies for their actions in those committees. The suit named the "Planning Board" not individual members. The Law Director will be creating a response to this matter.

Mr. Springer asked if Fieldstone Place had presented any further plans. Mr. Vath said something is expected for the next meeting. The design work has been underway and plans are expected by April 16, 2007.

Mr. Springer asked about the inventory of PRD land and industrial land. He asked if there was anything coming forward for commercial projects. Mr. Vath said he has been working with the state but it appears that the land must be "shovel-ready". Northgate Commerce Center, Donn Davis Way, and the Leshar property north across from Meijer all have industrial properties available.

Adjournment

There being no further business for discussion, Mr. McFarland **moved that the meeting be adjourned.** Mr. Berbach seconded the motion. The motion unanimously carried. Chairman McFarland declared the meeting adjourned at 9:30 pm.

Michael McFarland, Planning Board Chairman

Attest: _____
Marilyn Fennell, Board Secretary